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13 Attorneys for Plaintiff

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA, }

18 No. CR 12 0052 EMC

19 Plaintiff, }

20 **[PROPOSED] ORDER AND
21 STIPULATION TO VACATE
22 NOVEMBER 5, 2012 TRIAL DATE,
23 TO SET NOVEMBER 7, 2012
24 STATUS DATE, AND EXCLUDING
25 TIME FROM THE SPEEDY TRIAL
ACT CALCULATION (18 U.S.C. §
3161(h)(8)(A))**

26 v. }

27 ANTHONY MCGEE,
28 a/k/a "Hassan," }

29 Defendant. }

30 The above-captioned defendant is currently scheduled for trial on November 5,
31 2012 before the Honorable Edward M. Chen. With the consent of the defendant, the
32 parties hereby stipulate to vacate that trial date and related pretrial order and instead set
33 the case for a status hearing on November 7, 2012 at 2:30PM. The reasons for the request
34 are that the parties have been apprised of DNA testing results that may significantly
35 impact the state of the evidence in the case. In particular, the defendant, by and through
36 his attorney, Erik Babcock, Esq., will need time to assess the results and determine how
37 best to prepare a response at trial, if any, to that DNA evidence. Due to defense counsel's
38 schedule, there is insufficient time to accomplish such tasks in a timely manner. The
39 defendant will be prepared to address the Court regarding these matters at a status hearing

1 on the Court's regular criminal calendar on November 7, 2012. The parties also stipulate
2 and move for an exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(b), from
3 October 19, 2012 to November 7, 2012. The parties agree, and the Court finds and holds,
4 as follows:

5 1. The defendant by and through his attorney, Erik Babcock, Esq., need additional
6 time to investigate the case and effectively to prepare a defense to the charges.

7 2. The defendant agrees to an exclusion of time under the Speedy Trial Act.

8 Failure to grant the requested continuance would unreasonably deny defense counsel
9 reasonable time necessary for effective preparation, taking into account the exercise of
10 due diligence.

11 3. Given these circumstances, the Court hereby vacates the trial currently set for
12 November 5, 2012 and the related pretrial order. Instead, the Court sets the matter for a
13 status hearing on November 7, 2012 at 2:30PM. The Court hereby also finds that the
14 ends of justice served by excluding the period from October 19, 2012 to November 7,
15 2012 outweigh the best interest of the public and the defendant in a speedy trial. §
16 3161(h)(8)(A).

17 3. Accordingly, and with the consent of the defendant, the Court orders that the
18 currently scheduled trial date of November 5, 2012 is vacated along with its related
19 pretrial order, that the parties appear for a status conference on November 7, 2012 at
20 2:30PM, and that the period from October 19, 2012 to November 7, 2012 be excluded

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1 from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

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3 IT IS SO STIPULATED:

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5 DATED: October 19, 2012

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/s
ERIK BABCOCK, ESQ.
Attorney for Defendant

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8 DATED: October 19, 2012

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/s
RANDALL LUSKEY
ROBERT DAVID REES
Assistant United States Attorneys

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IT IS SO ORDERED.

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13 DATED: October 19, 2012

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HON. EDWARD M. CHEN
United States District Judge

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